

THE HONORABLE FRANKLIN D. BURGESS

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

TOBIAS GRACE, and  
SCOTT LANEY,

Defendants.

NO. CR04-5460FDB

ORDER GRANTING UNITED  
STATES' FIFTH  
APPLICATION FOR A  
PROTECTIVE ORDER TO  
MAINTAIN CUSTODY OF  
PROPERTY AND TO  
RESTRAIN DISPOSITION OF  
CERTAIN PROPERTY

This matter comes before the Court upon motion of the United States for a protective order, pursuant to 18 U.S.C. § 983(a)(3)(B)(ii) and 21 U.S.C. § 853(e)(1)(A), to maintain custody of certain property and to restrain disposition of certain property named for forfeiture in the Third Bill of Particulars filed in this matter. Having reviewed the United States' motion, the Court finds:

The property to which this order refers ("the property") is as follows:

- A. \$30,000.00 in United States Currency turned over to the Federal Bureau of Investigation (FBI) by Tobias Grace on February 14, 2005.
- B. \$90,000 in funds currently held in the Trust Account of Barry L. Flegenheimer, Attorney for Tobias Grace, comprised of the following:
  1. \$20,000 in funds, withdrawn by Monica Grace from the First Independent Bank in August, 2004, and subsequently turned over to

1 Attorney Flegenheimer.

2 2. \$20,000 in funds received by Monica Grace from Tim Foss in  
3 approximately September, 2004 and subsequently turned over to  
4 Attorney Flegenheimer.

5 3. \$50,000 in funds received by Tobias Grace from Tim Foss in  
6 approximately, September and December, 2004 and subsequently  
7 turned over to Attorney Flegenheimer

8 The property has been named in a Third Bill of Particulars to the Indictment in this  
9 case as subject to forfeiture. The \$30,000 listed in paragraph A above is currently in the  
10 custody of the United States Marshals Service, and is subject to administrative forfeiture  
11 notice and claim proceedings under 18 U.S.C. § 983. The \$90,000 listed in paragraph B  
12 above, is currently in the custody of Attorney Barry L. Flegenheimer. The United States  
13 has alleged that the property is subject to forfeiture under Counts I and II of the  
14 Indictment herein.

15 The United States is entitled to a protective order pursuant to 21 U.S.C. §  
16 853(e)(1)(A) based on the fact that the property is named for forfeiture in a Bill of  
17 Particulars to the Indictment herein which contains the allegation that, upon conviction,  
18 the property is subject to forfeiture. It is therefore

19 **ORDERED AND ADJUDGED:**

20 1. The United States, motion for a protective order is GRANTED.

21 2. The \$30,000 identified in paragraph A above, shall remain in the custody of the  
22 United States Marshal's Service, pending further order of this Court.

23 3. The \$90,000 identified in paragraph B above, shall remain in the trust account  
24 of Mr. Flegenheimer, and shall not be withdrawn, debited against, or otherwise disposed  
25 of, pending further order of this Court.

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1 4. The Clerk is Ordered to send copies of this Order to counsel for all parties of  
2 record.

3 Dated this 13<sup>th</sup> day of May 2005  
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5 /s/ Franklin D Burgess  
6 FRANKLIN D BURGESS  
7 UNITED STATES DISTRICT JUDGE

8 Presented by:

9  
10 /s/ Peter O. Mueller  
11 Peter O. Mueller  
12 Assistant United States Attorney  
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